

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

WEDNESDAY, THE TWENTY FIRST DAY OF JULY  
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY**

**and**

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT APPEAL NO. 857 OF 2001**

**AND**

**WRIT PETITION NO.12656 OF 2003**

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**WRIT APPEAL NO : 857 of 2001**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 26.04.2001 in Review W.P.M.P No. 5573 of 2000 in W.P NO: 11598 OF 1994 on the file of the High Court.)

Between:

1. Veerappa, S/o.V.Pothanna

aged 58 years, Occ: Cultivation,

R/o.Tirupathi, Chittoor District.

(Died per L.Rs).

2. Sarojamma, W/o. Krishnaiah, aged 45 years, daughter.

3. Muni Rajamma, W/o.Nagaraju, aged 35 years, daughter.

4. V.Dhanasekhar, s/o.late V.Veerapa, aged 33 years, son.

5. Padmavathamma, W/o.Ravikumar, aged 30 years, daughter.

6. Mohana, w/o.Suresh, aged 27 years, daughter.

All are R/o. H.No.406, Kasturiba land, Tirupathi, Chittoor district.

(Appellants 2 to 6 are brought on record as LR's of deceased Appellant No.1 as per Court order dated 29-10-2003 in W.A.No.857/2001)

**..... APPELLANTS**

AND

1. The Revenue Divisional Officer,  
Thirupathi, Chittoor District.

2. The District Collector,  
Chittoor District.

**.....RESPONDENTS**

**Counsel for the Appellant: Mr. P. Gangaiah Naidu.**

**Counsel for the Respondents: Government Pleader for Revenue.**

**WRIT PETITION NO : 12625 of 2003**

Between:

1. The District Collector, Chittoor.

2. The Mandal Revenue Officer, Tirupati (Rural).

**..... PETITIONERS**

AND

1. Sri.V.Veerappa, s/o.Pothanna (died), represented by his

L.R.V.Dhanasekhar, s/o.Late V.Veerappa, aged 33 years,

R/o.H.No.406, Kasturiba lane, Tirupati, Chittoor District.

2 The Revenue Divisional Officer, Tirupati, (Revenue Court),

Chittoor District.

3 The Commissioner of Appeals, O/o. Chief Commissioner of Land

Adminsitration, Hyderabad.

#### **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, Order or direction, more particularly one in the nature of writ of Certiorari calling for the records of the proceedings of the third respondent in Commr.Appeals/Proc.No.V3/437/2002 dated 23-4-2003 and quash the same as illegal, and contrary to the provisions of the A.P.(A.A) Inams (Abolition and Conversion into Ryotwari)Act, 1956 and consequently restore the order of the Revenue Court, Tirupati in D.Dis.3096/91 dated 3-6-2002 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

**Counsel for the Petitioner: Government Pleader for Revenue.**

**Counsel for the Respondent No.1: Mr. P. Gangaiah Naidu.**

**The Court made the following Common Order:**

**(per Hon'ble Sri.Justice B. Sudershan Reddy)**

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The writ appeal and the writ petition are being disposed of by a common order since the subject matter that arises for consideration in both of them is one and the same and the parties are also same.

A few relevant facts leading to the filing of writ appeal and writ petition are required to be noticed.

One V. Veerapa, S/o. Pothanna (since deceased), (the appellant in the writ appeal and the 1<sup>st</sup> respondent in the writ petition) claims to have purchased an extent of Ac. 1-90 cents of land in Sy. No. 241/3 of Tiruchoor village, Tirupati Rural Mandal under a registered sale deed dated 01-05-1970. The Inam Deputy Tahsildar, Thirupathi on the application filed by the appellant-Veerappa purporting it to be under Section 3 of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short 'the Act'), having made the necessary enquiries determined the land as Inam land situated in Inam village and not held by any institution. Accordingly, a notification was published in Chittoor District Gazette dated 03-09-1984. On 14-06-1985, the Inam Deputy Tahsildar, Thirupathi granted ryotwari patta in respect of the said land under Section 7 of the Act and the rules framed thereunder in favour of the appellant-Veerappa.

Thereafter, the appellant-Veerappa submitted an application to the Tahsildar, Tirupathi seeking for necessary changes to be incorporated in the revenue records and to sanction mutation. In the month of March, 1986 the Revenue Authorities having considered the application sanctioned mutation and the entries were accordingly made.

That on 24-05-1994 the Collector, Chittoor filed an appeal under Section 7(2) of the Act challenging the grant of ryotwari patta in favour of the appellant-Veerappa. There is some controversy whether the appeal was filed along with the application to condone the delay or from the date of knowledge. The case of the appellant is that the Revenue Divisional Officer entertained the appeal filed by the Collector after a long lapse of eight years by condoning the delay without any notice to him. The case of the Collector is that the appeal has been presented within the limitation from the date of knowledge of grant of ryotwari patta by the Inam Deputy Tahsildar. We do not propose to express any opinion on that question. But, it would be just and necessary to notice the order dated 7.6.1994 passed by the Revenue Divisional Officer while entertaining the appeal which reads as follows:

“The Collector, Chittoor filed a petition affidavit against the Orders of the Inam Deputy Tahsildar, Chittoor passed in SR.No.77/85 dt.14-6-85 and 49/86 dt.7-3-86 granting Ryotwari patta for an extent of 1-60 Acs and 0.30 cents respectively (1.90 Acs) comprised in S.No.241-3 of Tiruchanur village of Tirupati Rural Mandal in favour of Sri.V. Veerappa.

I have perused the affidavit and grounds of appeal set out by the Appellant and prima facie noticed that the land in question is a Communal land notified u/s.2-A of the A.P.I.A.Act, 1956 and thus vests with the Government free from all encumbrances. Pursuance to the dictum of the Hon'ble Justice M.N. Rao in connection with W.P.Nos: 2661 and 7677 of 1987 and Contempt Case No.243 of 1987, the appeal preferred by the Appellant is taken on file and the circumstances explained in the affidavit, stay of the operation of the Orders of the Inam Deputy Tahsildar, Chittoor passed in SR.Nos.77/85 dt.14-6-85 and S.R.No.49/86 dt.7-3-86 is hereby granted pending disposal of the appeal.

The case is posted for hearing on 11-06-1994 at 11-00 AM at the office of the Revenue Divisional Officer, Thirupati.”

The deceased-appellant challenged the order dated 07-06-1994 referred to herein above in W.P.No.11598 of 1994 on various grounds inter alia contending that the appeal preferred by the Collector before the Revenue Divisional Officer was hopelessly barred by limitation. The learned single Judge vide order dated 14-12-2000 without going into the various contentions raised and urged for and on behalf of the appellant disposed of the writ petition directing the Revenue Divisional Officer to dispose of the appeal preferred by the District Collector on merits and as well as on the question as to whether the appeal preferred by the Collector was barred by limitation. The appellant herein filed a review petition and also a Contempt Case. All of them were closed by an order dated 26-04-2001. Being aggrieved by the judgment of the learned Single Judge, the appellant filed Writ Appeal No.857 of 2001 assailing the judgment of the learned Single Judge. The Writ Appeal was disposed by this Court by order dated 17-7-2002 holding that the appeal preferred by the District Collector was hopelessly barred by limitation and there was no provision to condone the delay and entertain the appeal.

The Collector filed Review W.P.M.P.No.3177 of 2002 to recall the order dated 17-7-2002 passed in W.A.No.857 of 2001. Review W.P.M.P has been ordered by this Court vide its order dated 29-10-2003 recalling the order passed in the Writ Appeal. That in the meanwhile, the Revenue Divisional Officer disposed of the appeal itself by order dated 3-6-2002. It is also required to notice that the appellant-Veerappa died on 6-6-2002, that is to say three days after the orders were pronounced by the appellate authority.

The son of the writ appellant who is now brought on record preferred revision on 31-7-2002 against the order dated 3-6-2002 of the Revenue Divisional Officer and the same was allowed by the Commission vide order dated 22-4-2003.

The District Collector, Chittoor and the Mandal Revenue Officer filed Writ Petition No. 12625 of 2003 challenging the order of the Commissioner dated 22-4-2003. That is how the writ petition and the writ appeal are before us.

That as has been rightly contended by the learned Government Pleader for Revenue, the writ appeal preferred by the appellant herein has become infructuous. The writ petition itself has been preferred by the deceased appellant challenging the interlocutory order by the Revenue Divisional Officer on various grounds. Of course, the appellant had also challenged the action of the Revenue Divisional Officer in entertaining the appeal itself on the ground that it is barred by limitation. But the fact remains that the appeal itself has been disposed of by the Revenue Divisional Officer on merits. Therefore, whatever the observations that were made by the learned Single Judge as well as the appellate court are of no consequence.

The Commissioner, Land Revenue disposed of the revision preferred by the appellant vide order dated 22-4-2003 mainly relying upon the judgment of this Court in Writ Appeal No.857 of 2001 dated 17-7-2002. The Commissioner held that "there is no option, except to comply with the judgment of the Hon'ble High Court and that the orders of the Inams Dy. Tahsildar in the years 1985 & 1986 had become final and that the appeal filed by the District Collector, Chittoor after a lapse of 2,255 days and condonation of the abnormal delay does not arise as contemplated under the provisions of the I.A Act, 1956". No doubt while disposing of the revision, the Commissioner also observed that Section 2-A of the Act has no retrospective effect and the District Collector failed to establish that Section 2-A of the Act has got application to the schedule land. There is no discussion on any finding as such recorded by the Commissioner. They are the stray observations made by the Commissioner and the revision petition has been mainly allowed basing on the judgment of this Court rendered in W.A.No.857 of 2001 dated 17-7-2002.

We are required to appreciate that this Court vide order dated 29.10.2003 in Review W.P.M.P No. 3177 of 2002 recalled the order passed by the Division Bench in W.A

No. 857 of 2001

dated 17-7-2002. Thus, the whole basis upon which the order of the Commissioner is based has been set aside by this Court. Therefore, the order passed by the Commission cannot be sustained in the circumstances.

In such view of the matter, the impugned order in the writ petition passed by the Commissioner dated 22-4-2003 is required to be set aside and the same is accordingly set aside. The matter is remitted for fresh consideration by the Commissioner in accordance with the law. It shall be open to the writ appellants to urge all the contentions that are raised in the revision petition challenging the order passed by the Revenue Divisional Officer and the same shall be considered on its own merits uninfluenced by any of the observations made in any of the orders passed by this Court. It shall always be open to the District Collector and the Mandal Revenue Officer, Thirupathi to resist the revision petition filed by the appellants on such grounds as may be available to them in law. The objections raised and to be raised by the District Collector and the Mandal Revenue Officer shall also be taken into consideration by the revisional authority.

Interests of justice requires expeditious disposal of the revision petition filed by the appellants. The Commissioner is therefore directed to dispose of the revision petition within a period of three months from the date of receipt of a copy of the order.

It is needless to observe that whatever is the position existing as on today with regard to possession shall be maintained by the parties. Obviously, there cannot be any further encumbrance or alienation of the land in question or any portion thereof in any manner whatsoever.

In the result, the Writ Appeal shall stand dismissed as requiring no further orders. The writ petition is accordingly allowed to the extent indicated. There shall be no order as to costs.

(B. Sudershan Reddy, J)

21..07..2004

(K.C. Bhanu, J)

vs/ks

Rule nisi has been made absolute. Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the twenty first day of July, Two Thousand and Four.

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DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Revenue Divisional Officer,

Thirupathi, Chittoor District.

2. The District Collector,

Chittoor District.

3 The Revenue Divisional Officer, Tirupati, (Revenue Court),

Chittoor District.

4 The Commissioner of Appeals, O/o. Chief Commissioner of Land

Adminsitration, Hyderabad.

5 2 CCs to the Government Pleader for Revenue, High Court Buildings,

High Court of Andhra Pradesh, Hyderabad (OUT).

6 2 CD copies.